



February 16, 1999

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 N. Akard, Suite 1800
Dallas, Texas 75201

OR99-0459

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122030.

The City of Coppell (the "city"), which you represent, received a request for information responsive to nine inquiries. You supplied reports of incident investigations which you contend are responsive to seven of these inquiries; you seek to withhold this information. The following is a listing of the information requested and respective incident investigation reports submitted.

Inquiry	Description of Inquiry	Incident Report(s)
1	Investigation of the "assault by threat to shoot" on October 22, 1998 at 185 W. Parkway.	98-44763
2	Investigation of possession of controlled substance under four oz. on October 10, 1998 at Coppell Justice Center	98-042708, 98-042709
3	"Coppell 2000" statements	None
4	Investigation of family violence on the 200 block of South MacArthur on October 19, 1998	98-44119
5	Investigation of "aggravated assault" on 700 Block of East Sandy Lake on October 19, 1998	98-44207

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| 6 | Investigation of family violence of 600 block of Raintree Circle on October 18, 1998 | 98-43929 |
| 7 | Investigation of family violence of 500 block of Greenwich on October 10, 1998 | 98-42818 |
| 8 | Investigation of "unlawful carrying of weapon" on Denton Tap at Highway 121 on October 23, 1998 | 98-44684 |
| 9 | "All requests for public information of Doyle Calfey which the city of Coppell refused to process and/or did not provide document in regard to them this year" | None |

You contend that the information responsive to inquiries 1, 2, 4, 5, 6, 7, and 8 is excepted from disclosure by section 552.108 of the Government Code. You also contend that the information responsive to inquiries 1 and 7 is excepted by section 58.007 of the Family Code. As you do not raise an exception to inquiries 3 and 9, we assume that you have supplied this responsive information. If you have not done so, you must now release this information. We have examined the submitted information and considered the applicable exceptions to disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." It is a criminal offense to release information considered confidential. Gov't. Code §552.352. Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Law enforcement records relating to juvenile conduct that occurred on or after September 1, 1997, with exceptions not applicable here, are confidential under this statute. The reports of incident numbers 98-44763 and 98-42818 (responsive to items 1 and 7 respectively) are law enforcement records concerning juvenile conduct that occurred after September 1, 1997. These reports are confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the city must withhold these reports in their entirety under section 552.101 of the Government Code.

In relevant part section 552.108 reads:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the [disclosure] requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

...

(c) This section does not except from the [disclosure] requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

The purpose of this exception is to deny access to materials the release of which would interfere with law enforcement and the prevention of crime. *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The exception is generally limited to the records of governmental bodies whose primary function is to investigate crimes and enforce criminal laws. Open Records Decision No. 493 at 2 (1988). However, the exception may be invoked by any proper custodian of information relevant to an incident involving allegedly criminal conduct that is still under active investigation or prosecution. Open Records Decision No. 474 (1987).

Basic information about an arrested person, an arrest or a crime is not excepted by this statute. Gov't. Code § 552.108(c). The courts recognize a right of access to such basic information, characterized as "front page" offense report information, and expressly made public by court decision. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Our office has summarized the information not excepted from disclosure as follows:

- (a) the name, age, address, race, sex, occupation, alias, and physical condition of an arrested person;
- (b) the date and time of arrest;
- (c) the offense charged and the court in which it is filed;
- (d) the details of an arrest;
- (e) booking information;
- (f) the notation of any release or transfer;
- (g) bonding information;
- (h) the location of the crime;

- (i) the identification and description of the complainant;
- (j) the premises involved
- (k) the time of the occurrence of the crime
- (l) the property involved;
- (m) the vehicles involved, if any;
- (n) a description of the weather;
- (o) a detailed description of the offense; and
- (p) the names of the arresting and investigating officers

Open Records Decision No. 127

Excluding basic information, section 552.108 excepts three categories of information: 1) information the release of which would interfere with criminal investigation or prosecution, 2) information that relates to an investigation that did not result in a conviction or deferred adjudication, and 3) information that was prepared by or reflects the legal reasoning or mental impression of a prosecutor.

A governmental body making a claim under the first category must explain how and why release would interfere with law enforcement if this claim is not apparent on the face of the submitted documents. Open Records Decision No. 434 (1986). A demonstration that a criminal case or investigation has not concluded satisfies this requirement.

You represent that the reports of incident numbers 98-042708 and 98-042709 (responsive to inquiry 2) as well as the report of incident number. 98-44684 (responsive to inquiry 8) have been forwarded to the Dallas County District Attorney's Office for prosecution. From your representations, we conclude that release of the non-public portion of these reports before the conclusion of the prosecution of these cases would interfere with the investigation and prosecution of these crimes. You may therefore withhold the non-public information from these reports, pursuant to Government Code section 552.108(a)(1).

You represent that the investigation or prosecution of the criminal activities that are the subjects of incident numbers 98-44207 and 98-43929 (responsive to inquiries 5 and 6 respectively) is active and pending. From your representations we conclude that release of the non-public portion of these reports before the conclusion of these cases would interfere with the investigation and prosecution of these crimes. You may therefore withhold the

respective information pursuant to Government Code section 552.108(a)(1) during the pendency of the respective case.

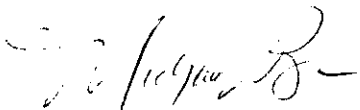
Withholding information under the second category requires a demonstration that the case or investigation has concluded but did not result in a conviction or deferred adjudication. Examples of such a demonstration include cases in which the statute of limitations has run, cases that conclude with a finding of not-guilty, and cases which are no longer actively investigated.

You represent that the activities subject to incident number 98-44119 (responsive to inquiry 4) will not be prosecuted. Based on your representation, we conclude that this investigation has concluded and that it did not result in conviction or deferred adjudication. Therefore you may withhold the non-public portion of this information pursuant to Government Code section 552.108(a)(2).

Although section 552.108 authorizes you to withhold information from disclosure, you may choose to release all or part of the information that is not otherwise confidential by law. See Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 122030

Enclosures: Submitted documents

cc: Mr. John Robinson
540 Christi Lane
Coppell, Texas 75019
(w/o enclosures)